

§ 516.50

or order. If directed by Litigation Division, however, the witness will respectfully decline to comply with the subpoena or order. (See *United States ex. rel. Touhy v. Ragen*, 340 U.S. 462 (1951)).

(e) *Expert witness fees.* All fees tendered to present DA personnel as an expert or opinion witness, to the extent they exceed actual travel, meals, and lodging expenses of the witness, will be remitted to the Treasurer of the United States.

§ 516.50 Interference with mission.

If the absence of a witness from duty will seriously interfere with the accomplishment of a military mission, the SJA or legal adviser will advise the requesting party and attempt to make alternative arrangements. If these efforts fail, the SJA or legal adviser will refer the matter to Litigation Division.

LITIGATION IN WHICH THE UNITED STATES HAS AN INTEREST

§ 516.51 Response to subpoenas, orders, or requests for witnesses.

(a) Referral to a deciding official. Requests, subpoenas, or orders for official information, interviews or testimony of present or former DA personnel in litigation or potential litigation in which the United States has an interest, including requests from DOJ, will be resolved by the SJA or legal adviser pursuant to the principles of this subpart. Litigation Division will be consulted on issues that cannot be resolved by the SJA or legal adviser.

(b) Reassignment of witnesses. When requested by the U.S. Attorney, the SJA or legal adviser will ensure that no witnesses are reassigned from the judicial district without advising the DOJ attorney. If a witness is vital to the government's case and trial is imminent, the SJA or legal adviser should make informal arrangements to retain the witness in the command until trial. If this is not feasible, or if a satisfactory arrangement cannot be reached with the DOJ attorney, the SJA or legal adviser should notify Litigation Division.

§ 516.52 Expert witnesses.

Requests for present or former DA personnel as expert or opinion wit-

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nesses from DOJ or other attorneys representing the United States will be referred to Litigation Division unless the request involves a matter that has been delegated by Litigation Division to an SJA or legal adviser. In no event, may present or former DA personnel furnish expert or opinion testimony in a case in which the United States has an interest for a party whose interests are adverse to the interests of the United States.

§ 516.53 News media and other inquiries.

News media inquiries regarding litigation or potential litigation will be referred to the appropriate public affairs office. DA personnel will not comment on any matter presently or potentially in litigation without proper clearance. Local public affairs officers will refer press inquiries to HQDA (SAPA), WASH DC 20310-1500, with appropriate recommendations for review and approval by the Office of the Chief of Public Affairs. All releases of information regarding actual or potential litigation will be coordinated with Litigation Division prior to release.

STATUS, TRAVEL, AND EXPENSES OF WITNESSES

§ 516.54 Witnesses for the United States.

(a) Status of witness. A military member authorized to appear as a witness for the United States, including those authorized to appear under § 516.55(d), will be placed on temporary duty. If USAR or NG personnel are requested as witnesses for the United States, and if their testimony arises from their active duty service, they should be placed on active duty to testify. The status of a civilian employee will be determined under Federal Personnel Manual 630, subchapter 10. DA personnel who appear as necessary witnesses for a party asserting the government's claim for medical care expenses are witnesses for the United States.

(b) Travel arrangements. Travel arrangements for witnesses for the United States normally are made by DOJ through Litigation Division for other than local travel. Litigation Division will issue instructions for this